

SENATE FLOOR SUBSTITUTE FOR
SENATE BILL 225

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

AN ACT

RELATING TO HEALTH CARE REFORM; ENACTING THE HEALTH CARE AND
POLICY COMMISSION ACT; CREATING THE HEALTH CARE AND POLICY
COMMISSION; PROVIDING FOR POWERS AND DUTIES; REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Health Care and Policy Commission Act".

Section 2. DEFINITIONS.--As used in the Health Care and
Policy Commission Act:

- A. "board" means the board of directors of the
commission;
- B. "commission" means the health care and policy
commission;
- C. "health care services" means any services by a

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1 licensed provider included in the furnishing to any individual
2 of medical, mental, dental, pharmaceutical or optometric care
3 or hospitalization or nursing home care or incident to the
4 furnishing of such care or hospitalization, as well as the
5 furnishing to any person of any and all other services for the
6 purpose of preventing, alleviating, curing or healing human
7 physical or mental illness or injury;

8 D. "health coverage" means any system to finance
9 health care services;

10 E. "health insurance" means any hospital or medical
11 expense-incurred policy; nonprofit health care plan service
12 contract or coverage of services; health maintenance
13 organization subscriber contract or coverage of services;
14 short-term, accident, fixed indemnity, specified disease policy
15 or disability income insurance contracts and limited health
16 benefit or credit health insurance; coverage for health care
17 services under uninsured arrangements of group or group-type
18 coverages, including employer self-insured, cost-plus or other
19 benefits methodologies not involving insurance or not subject
20 to New Mexico premium taxes; coverage for health care services
21 under group-type contracts that are not available to the
22 general public and can be obtained only because of connection
23 with a particular organization or group; coverage by medicare
24 or other governmental programs providing health care services;
25 but "health insurance" does not include insurance issued

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1 pursuant to provisions of the Workers' Compensation Act or
 2 similar law, automobile medical payment insurance or provisions
 3 by which benefits are payable with or without regard to fault
 4 and are required by law to be contained in any liability
 5 insurance policy;

6 F. "health insurer" means a person duly authorized
 7 in the state pursuant to the New Mexico Insurance Code to
 8 transact the business of health insurance; and

9 G. "superintendent" means the superintendent of
 10 insurance or the superintendent's designee.

11 Section 3. HEALTH CARE AND POLICY COMMISSION CREATED--
 12 MEMBERSHIP.--

13 A. The "health care and policy commission" is
 14 created and is an adjunct agency within the meaning of the
 15 Executive Reorganization Act.

16 B. The board shall consist of eleven members, at
 17 least one of whom shall be a Native American, one of whom shall
 18 be a physician licensed pursuant to the Medical Practice Act
 19 and one of whom shall be a nurse having a graduate-level
 20 education in nursing, selected as follows:

21 (1) two members from each of the five public
 22 regulation commission districts:

23 (a) five of whom shall be appointed by
 24 the governor and subject to senate confirmation; and

25 (b) five of whom shall be appointed by

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1 the New Mexico legislative council with at least two
2 appointments being made by council members from the minority
3 party; and

4 (2) the superintendent.

5 C. An appointed board member or any member of an
6 appointed board member's immediate family or household shall
7 not have any income derived from current or active employment,
8 contract or consultation with the health care financing or
9 coverage sector while serving on the board and for twelve
10 months preceding appointment to or service on the board.

11 D. Board members shall comply with the provisions
12 of the Governmental Conduct Act and the Financial Disclosure
13 Act.

14 E. Each appointed board member shall have at least
15 three years' experience in at least one of the following areas;
16 provided, however, that all areas are represented on the board:

17 (1) executive-level experience in management
18 or finance in a business not related to health care;

19 (2) experience in the field of health or human
20 services consumer advocacy;

21 (3) executive-level experience in a business
22 not related to health care that employs ten or fewer
23 individuals;

24 (4) executive-level experience in a business
25 not related to health care that employs eleven or more

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1 individuals;

2 (5) experience in health care management or
3 finance;

4 (6) experience related to health policy;

5 (7) experience in health care economics;

6 (8) experience in labor organization and
7 advocacy; and

8 (9) experience in public health.

9 F. Appointed board members initially shall have
10 terms chosen by lot as follows: three members shall serve two-
11 year terms; three members shall serve three-year terms; and
12 four members shall serve four-year terms. Thereafter, members
13 shall serve four-year terms. An appointed member shall not
14 serve more than two consecutive terms. An appointed member
15 shall serve until the member's successor is appointed and
16 qualified or for six months, whichever period of time is
17 shorter.

18 G. A majority of board members constitutes a
19 quorum. The board may allow members' participation in meetings
20 by telephone or by other electronic media that allow full
21 participation.

22 H. Every even-numbered year the board shall elect
23 its chair and vice chair in open session from any of the
24 members. A chair or vice chair shall serve no more than one
25 one-year term.

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1 I. A vacancy shall be filled by appointment by the
2 original appointing authority for the remainder of the
3 unexpired term.

4 J. A member may be removed from the board by a
5 majority vote of the members. The board shall set standards
6 for attendance and may remove a member for lack of attendance,
7 neglect of duty or malfeasance in office. A member shall not
8 be removed without proceedings consisting of at least one
9 notice of hearing and an opportunity to be heard. Removal
10 proceedings shall be before the board and in accordance with
11 procedures adopted by the board, including appeals procedures
12 to the attorney general.

13 K. A board member may receive per diem and mileage
14 in accordance with the Per Diem and Mileage Act, subject to
15 appropriation by the legislature and as travel policy is set by
16 the board's bylaws.

17 L. The board shall meet at the call of the chair
18 and not less than once monthly from July 1, 2008 until December
19 31, 2009. Thereafter, the board shall meet no less often than
20 once per calendar quarter. There shall be at least one week's
21 notice given to members prior to any meetings. There shall be
22 sufficient notice provided to the public prior to meetings, as
23 provided per state law.

24 M. The board is subject to and shall comply with
25 the provisions of the Administrative Procedures Act as well as

1 other statutes and rules applicable to state agencies.

2 N. Any decisions by the board shall require seven
3 out of eleven members voting in favor.

4 O. The board shall report to the appropriate
5 interim legislative committees at least once per calendar year,
6 no later than October 1 of each year.

7 Section 4. COMMISSION POWERS--DUTIES.--

8 A. The board may:

- 9 (1) identity procedures to carry out the
10 duties identified in Subsections B and C of this section;
11 (2) create ad hoc advisory councils; and
12 (3) request assistance from other boards,
13 commissions, departments, agencies and organizations necessary
14 to provide appropriate expertise to accomplish the commission's
15 duties.

16 B. The board shall create the following expert
17 advisory councils to provide the board with policy, program and
18 analysis recommendations to maximize commission efficiency and
19 effectiveness. At least once every calendar quarter, each
20 council shall present its findings and recommendations to the
21 board on issues described below or those requested by the
22 board. The councils shall include, at a minimum:

- 23 (1) a finance council to study existing and
24 prospective public and private health care system financing and
25 cost-containment initiatives for a sustainable universal health

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1 care system;

2 (2) a federal impact council to:

3 (a) examine the impact of federal legal
4 and administrative requirements on, and make recommendations
5 for, reducing the number of New Mexicans without health
6 coverage, improving access to affordable health care and
7 removing barriers to reducing the number of uninsured New
8 Mexicans; and

9 (b) recommend steps to maximize federal
10 assistance and address federal requirements;

11 (3) a Native American health council
12 consisting of members of Native American tribes, nations and
13 pueblos to examine Native American health care access needs and
14 make recommendations on measures to improve access to health
15 care for Native Americans;

16 (4) a health disparities council consisting of
17 representatives from underserved populations who have expertise
18 in the causes and elimination of health disparities to make
19 recommendations, including but not limited to, recommendations
20 on the following issues:

21 (a) disparities in the disease rates
22 among and between racial and ethnic populations;

23 (b) language and cultural barriers to
24 health care access; and

25 (c) enrollment strategies appropriate

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1 for diverse populations;

2 (5) a delivery system council to:

3 (a) examine prevention and wellness
4 incentives and chronic disease management;

5 (b) make recommendations on new health
6 care coverage and delivery systems and evidence-based health
7 care quality and outcome indicators; and

8 (c) make recommendations on recruiting
9 and retaining providers within the desired specialties or
10 occupations; and

11 (6) a council of state-funded or state-created
12 health care or health coverage agencies or other entities to
13 examine cost containment and benefit issues and make policy
14 recommendations related to those issues.

15 C. By January 1, 2009, the commission shall develop
16 a comprehensive plan for accessible and affordable health care
17 for all people living in New Mexico. The commission shall
18 develop proposals and recommendations to the legislature and
19 the governor, including but not limited to proposals and
20 recommendations on the following issues:

21 (1) the financing of a health care system that
22 incorporates strategies from the public and private sectors;

23 (2) the evaluation of insurance reforms,
24 including guaranteed issue, community rating, preexisting
25 conditions provisions, health savings accounts, medical loss

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1 ratios, a health insurance exchange and portability measures;

2 (3) the definition of standards for a set of
3 essential health care services;

4 (4) the administrative reorganization or
5 consolidation of public sector programs and products, where
6 feasible and beneficial, to increase the number of individuals
7 covered and to contain costs;

8 (5) the assessment of the impact of federal
9 laws and regulations and any changes in the structure of health
10 coverage or policies;

11 (6) the evaluation of statutory and regulatory
12 initiatives to provide cost-effective health care services,
13 including the evaluation of:

14 (a) how to provide access to information
15 that would enable providers, consumers and purchasers to
16 evaluate cost data fairly, including contractual terms such as
17 reimbursement rates and provider charges, without compromising
18 individual patient information;

19 (b) how to implement a statewide uniform
20 health care provider credentialing process;

21 (c) the costs and benefits of improving
22 the transparency of provider services and health benefit plans;
23 and

24 (d) the costs and benefits of bulk
25 purchasing of health care services, durable medical equipment,

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1 health care supplies and pharmaceuticals;

2 (7) the evaluation of the current health care
3 delivery services, including the evaluation of:

4 (a) the proper role of a comprehensive
5 statewide system in providing acute medical care, behavioral
6 health care, chronic medical care and disease management,
7 preventive care and wellness, public health and patient
8 education; and

9 (b) a system to align provider and
10 insurer incentives to use evidence-based care and to produce
11 healthy outcomes;

12 (8) the setting of affordability standards for
13 individuals and families, particularly uninsured individuals,
14 relating to purchasing insurance coverage for the defined
15 essential health services;

16 (9) the development of a program that partners
17 public health coverage programs with private health coverage
18 plans to provide health insurance coverage that meets
19 affordability standards;

20 (10) the design of measures to make health
21 insurers and health benefit plans accountable to the public and
22 to state government;

23 (11) the assessment of strategies for reducing
24 racial and ethnic health care disparities and identifying
25 underserved populations;

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1 (12) the evaluation of incentives for
2 providers to utilize information technology to deliver
3 efficient, safe and quality health care and to encourage the
4 development of individual electronic medical records that
5 protect patient privacy;

6 (13) the evaluation of the feasibility of
7 implementing programs to deliver local community-based health
8 care services;

9 (14) the examination of measures, targeted at
10 local and statewide levels as appropriate, to improve health
11 care outcomes while containing costs;

12 (15) the operation of a health care system
13 that provides a primary care medical home to individuals and
14 provides information about the range, cost and quality of
15 services offered by providers and plans; and

16 (16) an examination of health professional
17 malpractice issues that impact health care.

18 D. The board shall appoint an executive director of
19 the commission. The executive director shall have at least
20 five years' experience in health care policy, management,
21 delivery, financing or coverage. The board shall develop a
22 process for evaluating the executive director's performance.
23 The executive director shall carry on the day-to-day operations
24 of the commission. The executive director shall be exempt from
25 the provisions of the Personnel Act.

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1 Section 5. HEALTH CARE AND POLICY COMMISSION--STAFF.--

2 A. The executive director of the commission:

3 (1) shall employ and fix the compensation of
4 those persons necessary to discharge the duties of the
5 commission, including regular, full-time employees;

6 (2) shall propose an annual budget for the
7 commission;

8 (3) shall report to the board no less than
9 once monthly from July 1, 2008 until July 1, 2009 and no less
10 than once quarterly after July 1, 2009;

11 (4) may contract with persons for professional
12 services that require specialized knowledge or expertise or
13 that are for short-term projects; and

14 (5) may organize the staff into operational
15 units as the executive director sees fit in order to facilitate
16 the commission's work.

17 B. The commission's staff is subject to the
18 provisions of the Personnel Act.

19 Section 6. REPORTING AND USE OF DATA.--

20 A. Health insurers and providers shall report to
21 the commission data about health coverage, services delivered,
22 incident and infection rates and outcomes achieved in a format
23 required or approved by the commission after consultation with
24 other state entities authorized to collect related data.

25 B. Data reported shall be in aggregate form. Data

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1 shall be reported electronically to the extent possible. The
2 commission shall use and report data received only in aggregate
3 form and shall not use or release any individual-identifying
4 information or corporate proprietary information for any
5 purpose except as provided by state or federal law or by court
6 order.

7 C. In developing data reporting requirements, the
8 commission shall seek and consider input from health insurers,
9 providers, employers, advisory councils created pursuant to
10 Section 4 of the Health Care and Policy Commission Act and the
11 public regarding the format, timing and method of transmission
12 of data to prevent duplicative reporting and to make the
13 reporting of data the least burdensome possible.

14 D. The commission may use data collected by
15 provider associations or other entities and shall not request
16 data already collected by and available from other state
17 agencies.

18 Section 7. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
19 The health care and policy commission is terminated July 1,
20 2013 pursuant to the Sunset Act. The commission shall continue
21 to operate according to the provisions of the Health Care and
22 Policy Commission Act until July 1, 2014. Effective July 1,
23 2014, the Health Care and Policy Commission Act is repealed.

24 Section 8. TEMPORARY PROVISION--NEW MEXICO HEALTH POLICY
25 COMMISSION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND

1 REFERENCES IN LAW.--On July 1, 2008:

2 A. all personnel, appropriations, money, records,
3 equipment, legislative requests, supplies and other property of
4 the New Mexico health policy commission shall be transferred to
5 the health care and policy commission;

6 B. all contracts of the New Mexico health policy
7 commission shall be binding and effective on the health care
8 and policy commission;

9 C. all references in law to the New Mexico health
10 policy commission shall be deemed to be references to the
11 health care and policy commission; and

12 D. the executive director of the New Mexico health
13 policy commission shall be appointed as interim executive
14 director of the health care and policy commission until the
15 board of directors of the health care and policy commission
16 appoints an executive director.

17 Section 9. REPEAL.--Section 9-7-11.2 NMSA 1978 (being
18 Laws 1991, Chapter 139, Section 2, as amended) is repealed
19 effective July 1, 2008.

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